

**UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451**

Mailed: July 19, 2005

Cancellation No. 92032341

PRAMIL S.R.L.

v.

MICHEL FARAH

Cindy B. Greenbaum, Attorney:

This case now comes up for consideration of respondent's request (filed April 7, 2005) for reconsideration of that portion of the March 28, 2005 Board order which denied respondent's motion to reopen his testimony period, and petitioner's motion (filed May 2, 2005) to strike petitioner's testimonial deposition. The parties have fully briefed the issues.

By way of background, the March 28, 2005 Board order: (1) granted as conceded petitioner's motion to extend its time to file the deposition testimony of Jacob Aini; (2) granted as conceded respondent's first motion to extend his testimony period; (3) granted as well taken respondent's second motion to extend his testimony period, such that respondent's testimony period closed on February 28, 2005;

and (4) denied respondent's motion to reopen his testimony period.¹

A motion for reconsideration is a device that may be used to demonstrate that, based on the facts before the Board when it issued its order and on the applicable law, the Board's ruling is in error and requires appropriate change. The motion may not be used to introduce into the record facts which were previously known and which could have been presented earlier. See Trademark Rule 2.127(b) and TBMP § 518 (2d ed. rev. 2004).

The March 28, 2005 Board order considered each of the factors set forth in *Pioneer Investment Services Company v. Brunswick Associates Ltd. Partnership*, 507 U.S. 380 (1993), as discussed by the Board in *Pumpkin Ltd. v. The Seed Corps*, 43 USPQ2d 1592 (TTAB 1997), and found that respondent's stated reasons for failing to take testimony were not well taken and did not constitute excusable neglect.

Upon careful consideration of respondent's arguments on reconsideration, the Board is not persuaded that there was any error in the prior decision. Specifically, the Board notes that respondent advanced nearly identical reasons in his two motions to extend and his motion to reopen, and that while the Board determined that those reasons constituted

¹ Although captioned as a third motion to extend respondent's testimony, the Board noted that the motion was one to reopen respondent's testimony, as respondent filed said motion on March 1, 2005, i.e., after his testimony period had closed.

good cause to extend respondent's testimony period, the same reasons, without more, did not constitute excusable neglect. Moreover, in his motion for reconsideration, respondent introduces new arguments and new facts not presented in his motion to reopen, but does not argue that he was unaware of these facts when he filed the motion to reopen.

Accordingly, respondent's request for reconsideration is denied.

Furthermore, because respondent took his testimony deposition on March 29, 2005, after his testimony period had closed, petitioner's motion to strike respondent's testimony deposition is granted.

The Board notes that the parties have filed their main briefs on the case, and that petitioner has filed a reply brief. In view thereof, this case is ready for final decision. The proceeding file will be forwarded to the Chief Administrative Trademark Judge for assignment to a panel. A final decision will issue in due course.